

**REMARKS**

Claims 1-44 have been cancelled from the application, and new claims 45-96 have been substituted therefore. No new matter has been added. It is to be noted that claims 1-44 have not been canceled for purposes relating to patentability. Rather, claims 45-96 are being substituted for claims 1-44 for purposes of clarification, and in order to present to the examiner a clean set of claims which reflect all of the presently presented claim features.

During a telephonic interview between the undersigned attorney and the examiner on 10/27/05, the various rejections of the claims were discussed with respect to the present invention and the cited prior art references. Another brief telephonic interview between the undersigned attorney and the examiner was conducted on 11/1/05. A summary of each of the telephonic interviews is presented below. At the conclusion of the telephonic interviews, it was agreed that:

1. The problem to be solved by Welter has nothing to do with the problem to be solved by the present invention which relates to determining the health status of a network device or server;
2. Welter does not explicitly state the words "format", "formatting", or "format verification" in the specification of Welter; and
3. The use of the exemplary regular expression "gray|grey" represents a use of a regular expression to perform string matching, and does not represent a use of a regular expression to perform format verification of content.

Claims 1-8, 14-24, 26-34, and 36-44 rejected by the examiner under 35 U.S.C. § 103(a) as being on patentable over applicant submitted prior art (AAPA) in the view of Welter (6,138,157). This rejection is respectfully traversed.

As amended, independent claim 45 of the present application reads:

A method for determining a health status of a selected network device in a data network, the method comprising:

receiving data from the network device, said data including content information;

performing format verification on a first portion of said content information by verifying at least one format of the first portion of content information using predetermined format verification rules; and

determining the health status of the network device based upon results of said format verification.

On page 6 of the office action, it is believed that the examiner admits that the AAPA fails to especially disclose verifying at least a portion of content information by verifying at least one format of selected content information using predetermined format verification rules.

Additionally, on page 6 of the office action, the examiner states that Welter teaches a method and apparatus for testing web sites comprising: receiving HTML data including from a network device; and verifying content information by verifying the format of the selected content information using format verification rules that match against string values, regular expressions, and calculated values to determine any inconsistencies. The examiner cites Welter 8:1-6 in support of this statement. Applicant respectfully disagrees.

First, as discussed during the telephonic interview, it was agreed that the problem to be solved by Welter has nothing to do with determining the health status of a network device or server. Accordingly, it is submitted that one having ordinary skill and the art would not be motivated to look to Welter in order to solve problems relating to determining of the health status of selected network devices in a data network, and therefore that the AAPA and Welter are not properly combinable as suggested by the examiner.

Second, it is submitted that Welter does not teach or suggest, among other things, performing format verification on a first portion of content information received from a network device by verifying at least one format of the first portion of content information using predetermined format verification rules.

Welter Column 8, lines 1-9 state:

...Process control is then turned over to an operation 211 which takes measures based on the HTTP request and response, analyzes received HTML for expected content and errors using methods such as matching against string valves, regular expressions, and calculated valves and stores them in a database. Error analysis and matching methods are well known to those skilled in the art.

Although Welter teaches the use of regular expressions, there is no teaching or suggestion in Welter for using or creating regular expressions to performing format verification on a first portion of content by verifying at least one format of the first portion of content information using predetermined format verification rules.

An example of a definition for the term "regular expression" may be found at <http://en.wikipedia.org>, and is stated for reference below:

A regular expression...is a string that describes or matches a set of strings, according to certain syntax rules...

A regular expression, often called a pattern, is an expression that describes a set of strings. They are usually used to give a concise description of a set, without having to list all elements. For example, the set containing the three strings Handel, Händel, and Haendel can be described by the pattern "H(ä|ae?)ndel" (or alternatively, it is said that the pattern matches each of the three strings)...

From this definition, it is clear that the customary and ordinary use of regular expressions is for the purpose of matching a desired set of strings. For example, the regular expression "gray|grey" may be used to match either or both of the strings: "gray" or "grey."

However, while it may be commonly known to use regular expressions for the purpose of performing string matching, it is submitted that it was not commonly known to one having ordinary skill in the art at the time of the invention to use regular expressions for the purpose of performing format verification on a first portion of content.

As described in the specification of the present application, for example, pages 11-12, one of the novel and unique features of the present invention relates to the technique of creating and using regular expressions which are specifically configured or designed to be used for verifying formatting characteristics of selected content. Such a feature is defined, for example, in claims 49, 57, 63, 72, and 80 of the present application. In at least one embodiment of the present invention, such regular expressions (e.g., regular expressions which are specifically configured or designed to be used for verifying formatting characteristics of selected content) may be used in performing format verification on a first portion of content information by verifying at least one format of the first portion of content. Such a feature is defined, for example, in independent claims 45, 55, 61, 69, 74, 75, 77, 86, 89, and 96 of the present application.

Although Welter 8:1-6 teaches the use of regular expressions, there is no teaching or suggestion in Welter or the other cited prior art references for using or creating regular expressions which are specifically configured or designed to be used for verifying formatting characteristics of selected content. Additionally, there is no teaching or suggestion in Welter or the other cited prior art references for performing format verification on a first portion of the content information by verifying at least one format of the first portion of content information using predetermined format verification rules.

Accordingly, even if one were to combine AAPA with the teachings of Welter, the resulting system could not be used to implement a method for determining a health status of a selected network device in a data network which includes each of the elements defined, for example, in claim of 45 of the present application.

During the telephonic interview with the examiner on 11/1/05, the examiner expressed an opinion that Welter 8:1-6 implicitly suggests the use of regular expressions to perform format verification of HTML content. Applicant respectfully disagrees. Not only is there no explicit teaching or suggestion in Welter for using regular expressions to perform format verification, but Welter explicitly states at 8:1-6 that Process 211 (of Welter) analyzes received HTML for expected content and errors using methods such as matching against string values, regular expressions, and calculated values and stores them in a database. From this explicit teaching of Welter, it is clear that Welter teaches the use of regular expressions to perform string matching of HTML when analyzing received HTML for expected content and errors.

However, it is submitted that there is no evidence of record to support an interpretation that Welter either explicitly or inherently teaches or suggests the use of regular expressions to perform format verification of HTML. Moreover, as stated previously, while it may be commonly known to use regular expressions for the purpose of performing string matching, it is submitted that it was not commonly known to one having ordinary skill in the art at the time of the invention to use regular expressions for the purpose of performing format verification of selected content. Accordingly, should the examiner maintain his assertion that Welter 8:1-6 implicitly suggests the use of regular expressions to perform format verification of HTML content, the examiner is respectfully requested to cite additional evidence of record in support of a prima facie case for relying on such an assertion.

Additionally, it is also noted that operation 211 of Welter does not teach or suggest taking any action in response to detecting any errors in the received HTML (see, e.g., Welter 8:1-9). In contrast operations 212, 222, and 236 of Welter specifically describe the step of aborting a test if an error is detected. Accordingly, it is submitted that neither Welter nor any of the other cited prior art references teach or suggest, for example, the features of: detecting, using results of the format verification, a problem relating to the health status of the first network device; and automatically implementing at least one action in response to the detecting of the problem relating to the health status of the first network device, as defined, for example, in claims 47, 62, 70, 76, 78, and 90 of the present application.

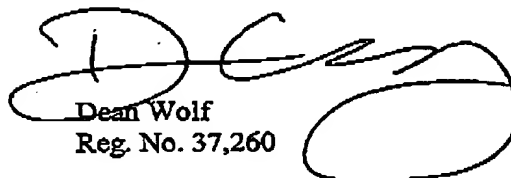
Independent claims 55, 61, 69, 74, 75, 77, 86, 89, and 96 define features similar to those defined in claim 45, and are therefore believed to be allowable for at least those reasons stated

above in support of claim 45. Additionally, each of the presently pending dependent claims is also believed to be allowable since it depends upon a respective independent claim.

Because claims 45-96 are believed to be allowable in their present form, many of the examiner's rejections in the Office Action have not been addressed in this response. However, applicant respectfully reserves the right to respond to one or more of the examiner's rejections in subsequent amendments should conditions arise warranting such responses.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
BEYER WEAVER & THOMAS, LLP



Dean Wolf  
Reg. No. 37,260

P.O. Box 778  
Berkeley, CA 94704-0778  
510.495.3201